

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

Chambers of  
**George L. Russell, III**  
United States District Judge

101 West Lombard Street  
Baltimore, Maryland 21201  
410-962-4055

August 28, 2020

MEMORANDUM TO PARTIES RE:

Annette I. Dhannie v. The Attorney General  
of the United States, et al.  
Civil Action No. GLR-20-661

Dear Parties:

Pending before the Court is Defendants The Attorney General of the United States, United States Attorney, and United States Department of Homeland Security's Motion to Dismiss or, in the Alternative, for Summary Judgment (ECF No. 5). The Motion is ripe for disposition, and no hearing is necessary. See Local Rule 105.6 (D.Md. 2018). For the reasons outlined below, the Court will grant the Motion as unopposed.

This pro se action, filed March 11, 2020, arises from Plaintiff Annette I. Dhannie's allegation that her husband, a citizen of the United Kingdom, was wrongfully denied an immigration visa to enter the United States. (Compl. at 9–11, ECF No. 1).<sup>1</sup> The Complaint alleges violation of §§ 2671, 2674, and 1346(b) of the Federal Tort Claims Act ("FTCA"), 28 USC §§ 1346(b) and 2671 et seq. (2018). (Id. at 4). Dhannie seeks \$150,000 in damages. (Id. at 11).

Defendants filed their Motion to Dismiss on June 25, 2020. (ECF No. 5). On June 26, 2020, the Clerk of the Court mailed Dhannie a Rule 12/56 Notice (the "Notice"), informing Dhannie that Defendants had filed the Motion and that failure to submit a timely written opposition could result in adjudication of the Motion and dismissal of her claims without further opportunity for written argument. (Notice at 1, ECF No. 12). On July 10, 2020, Dhannie requested, and subsequently received, a thirty-day extension of time to submit an opposition to Defendants' Motion. (ECF Nos. 13, 14). By this Court's calculation, Dhannie's opposition was due no later than August 12, 2020. To date, the Court has not received Dhannie's opposition or a motion seeking an extension of time to file an opposition. Accordingly, the Court considers Defendants' Motion unopposed.

Defendants move to dismiss under Federal Rules of Civil Procedure 12(b)(1) and (b)(6), arguing: first, this Court lacks subject matter jurisdiction over Dhannie's loss of consortium claim because she failed to exhaust her administrative remedies and, in any event, the claim fails on the merits; second, this Court does not have jurisdiction to review the U.S. Citizenship and Immigration Services' ("USCIS") discretionary decision under 8 U.S.C. § 1182(h); third, the discretionary function exception to the FTCA's waiver of immunity bars Dhannie's tort claims; fourth, Dhannie's claim that USCIS contrived its reason to deny the visa is without merit and

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<sup>1</sup> Citations to the Complaint refer to the pagination assigned by the Court's Case Management and Electronic Case Files ("CM/ECF") system.

barred under § 2680(h)'s exception to FTCA's waiver of immunity; and fifth, Dhannie fails to state a plausible negligence claim. Defendants also note that Dhannie's FTCA claim is limited to \$80,000 pursuant to 28 U.S.C. § 2675(b).

The Court has reviewed the factual allegations in Dhannie's Complaint and the legal arguments raised in Defendants' unopposed Motion and concludes that Defendants' arguments are meritorious. Thus, Defendants are entitled to dismissal of the Complaint pursuant to Rules 12(b)(1) and (b)(6) for the reasons cited in their Motion.

For the foregoing reasons, Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment (ECF No. 5) is GRANTED AS UNOPPOSED. Despite the informal nature of this Memorandum, it shall constitute an Order of the Court, and the Clerk is directed to docket it accordingly, to send a copy of this Memorandum to Dhannie at her address of record, and to CLOSE this case.

Very truly yours,

/s/

George L. Russell, III  
United States District Judge